

1 KYLE WEST

2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE  
4 EASTERN DISTRICT OF VIRGINIA

5 CHMURA ECONOMICS & )  
6 ANALYTICS, LLC, )

7 Plaintiff, )

8 VS. )

CASE NO. 3:19cv813

9 RICHARD LOMBARDO, )

10 Defendant. )

11  
12  
13  
14 TELEPHONIC DEPOSITION  
15 OF

16 KYLE WEST  
MAY 14, 2020  
3:06 p.m.

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23  
24 Reported by:  
Monna J. Nickeson, CRR, CLR, RPR, CRR  
25 Job No. 179923

KYLE WEST

May 14, 2020

3:06 p.m.

Telephonic deposition of KYLE WEST,  
before Monna J. Nickeson, a Certified Court  
Reporter, Certified Realtime Reporter,  
Registered Professional Reporter, and Certified  
Livenote Reporter.

KYLE WEST

A P P E A R A N C E S

KOEHLER FITZGERALD  
Attorneys for the Plaintiff  
1111 Superior Avenue East  
Cleveland, OH 44114  
BY: CHRISTINE COOPER, ESQ.

MCGUIREWOODS  
Attorneys for the Defendant  
800 East Canal Street  
Richmond, VA 23219  
By: CHRISTOPHER MICHALIK, ESQ.

ALSO PRESENT:

Richard Lombardo  
Leslie Peterson

1 KYLE WEST

2 IT IS HEREBY STIPULATED AND AGREED  
3 by and between the attorneys for the respective  
4 parties herein, that filing and sealing be and  
5 the same are hereby waived.

6 IT IS FURTHER STIPULATED AND AGREED  
7 that all objections, except as to the form of  
8 the question, shall be reserved to the time of  
9 the trial.

10 IT IS FURTHER STIPULATED AND AGREED  
11 that the within deposition may be sworn to and  
12 signed before any officer authorized to  
13 administer and oath, with the same force and  
14 effect as if signed and sworn to before the  
15 Court.

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21 KYLE WEST

22 called as a witness, having been duly sworn by  
23 the Court Reporter, was examined and testified  
24 as follows:  
25

1 KYLE WEST

2 EXAMINATION

3 BY MR. MICHALIK:

4 Q. Good evening, Mr. -- I guess good  
5 afternoon, where you're at, Mr. West. My name  
6 is Chris Michalik. I'm an attorney for Chmura  
7 Analytics, and I'll be taking your deposition  
8 today in the litigation dispute between Rick  
9 Lombardo and Chmura Analytics.

10 I'm going to go over some ground  
11 rules so you understand how the deposition  
12 process works.

13 First, have you ever given a  
14 deposition before?

15 A. No.

16 Q. Okay. Then just briefly, give you  
17 some background, rules to keep in mind. First  
18 of all, you understand that you're under oath,  
19 so this is like as if you were testifying in a  
20 court of law?

21 A. That's clear, yes.

22 Q. And there's a court reporter who is  
23 going to be taking down what you say and I say.  
24 So it's going to be important, so that she can  
25 get what we say down, that we don't talk over

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each other. So if you will let me finish my questions before you answer, and then I'll let you finish your answer before I ask another question, that way she'll be able to get everything we say down; is that clear?

A. Roger that.

Q. And in that same vein, we naturally, just in talking, sometimes will nod our heads as a response up or down or say "uh-huh" or "uh-uh." That's difficult for the court reporter to get down particularly in the circumstances we are in today with the virtual deposition. So just answer audibly, okay?

A. Yes.

Q. And if you don't understand a question -- a question that I say, just let me know and I'll rephrase it. If you respond, I'm going to assume that you understood the question that I asked.

A. Roger that.

Q. One last thing, I don't think we'll be here overly long today, but this is not a marathon, so if you need a break, just let me know and we can take a break. I may finish a

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2 line of questioning before we go into the  
3 break, okay?

4 A. Thank you.

5 Q. A couple of other background  
6 questions. Did you review any documents in  
7 preparation for your deposition today?

8 A. I took a look at the declaration  
9 that I signed.

10 Q. Okay.

11 A. I reviewed the subpoena, I believe  
12 it was, that I received in the mail one or two  
13 weeks ago.

14 Q. Any other documents other than  
15 those?

16 A. No. I was not aware of anything  
17 that I was supposed to review.

18 Q. Okay. And did you talk to anyone in  
19 preparation for your deposition today?

20 A. Aside from Ms. Cooper three to four  
21 weeks ago when I prepared the declaration, I  
22 apologize if that's not the right term, but the  
23 statement that I provided.

24 Q. Okay. And in your conversations  
25 with Ms. Cooper, what did you and she discuss?

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A. So she confirmed my employment with Chmura in terms of the duration, the various positions that I held, and she asked some, I would say, high-level questions about the extent to which I interacted with Richard Lombardo.

Q. And the declaration that you signed, did you draft that declaration?

A. I asked her if she could draft it and send it to me for review, which she did, and I made edits and returned it to her. She sent, I'll say, the edited version back to me, I signed it and returned it to her.

Q. Other than Ms. Cooper, have you spoken with anybody else in preparation for your deposition today?

A. No. My wife.

Q. I'm sorry. Go ahead.

A. My wife.

Q. Okay. And anyone other than your wife and Ms. Cooper, have you spoken to anybody in preparation for your deposition today?

A. No. I wouldn't say "in preparation." I have a friend here in Spokane



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2 who is an attorney --

3 Q. Okay.

4 A. -- that I just asked questions  
5 about.

6 Q. I'm sorry. I interrupted you. Go  
7 ahead.

8 A. I asked my friend some basic  
9 questions about what to expect, what precisely  
10 a deposition was, of course the questions that  
11 I asked you on the phone a few weeks on the  
12 phone.

13 Q. Anybody other than those individuals  
14 that you spoke with in preparation for your  
15 deposition?

16 A. No.

17 Q. Did you speak with Mr. Lombardo in  
18 preparation for your deposition?

19 A. No.

20 Q. I'm going to ask some background  
21 questions about your employment history  
22 specifically with Chmura. Do you recall when  
23 you became employed with Chmura?

24 A. I do.

25 Q. And when was that?

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A. July of 2015.

Q. And do you recall what position you were hired for?

A. I believe the initial title was West Coast Products Director. It changed within my first week to Applied Economics and Technology Advisor.

Q. Okay. And you said West Coast, I understand that you're on the West Coast today. Have you always been located on the West Coast?

A. No. I grew up in Illinois, and I've been in the State of Washington since 2001. I lived in Richmond from roughly July to -- Richmond, Virginia, that is, from about July of 2015 through Septemberish of 2015.

Q. Okay. And when you were done living in Richmond, that period, did you move back to the State of Washington?

A. Correct.

Q. And have you been in -- at least during your employment with Chmura, were you in Washington for the rest of that time period?

A. My residence has always been in Washington. I'm not sure the level of detail

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you want. Outside of Spokane, my residence address has always been Washington since 2001, yes.

Q. During your time that you were employed by Chmura, except for the period that you referenced -- the several month period that you referenced when you were in Richmond, Virginia, was your work -- your primary work location located in the State of Washington?

A. Yes, in terms of where I was physically located, yes.

Q. Yes. Okay. I just want some brief background about your history before you came to work for Chmura in 2015.

Did you attend post high school education? Did you go to college?

A. I did.

Q. And where did you go?

A. St. Norbert College.

Q. Do you recall what degree you received?

A. I do.

Q. And what was that?

A. I received a bachelor's degree with

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majors in economics and philosophy.

Q. And did you achieve -- go through any further education? Did you receive a master's or a Ph.D. or any type of post-education degree like that?

A. I did.

Q. And what did you receive?

A. I received a master's of health policy and administration.

Q. And where was that from?

A. Washington State University.

Q. Any other degrees that you received?

A. No. I was enrolled for one year in a graduate program in philosophy, applied ethics at Gonzaga University, which is why I moved here in the first place. And I'm currently enrolled in a master's of business administration program also at Gonzaga.

Q. Before you began working for Chmura, where were you working immediately prior to that?

A. Spokane Area Workforce Development Council.

Q. And what position did you hold?

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A. My title, if that's what you're asking, was Business and Development Manager.

Q. Can you just very briefly describe what your job duties entailed?

A. Yeah. So I had two major pillars of my job description. The development side was to, quote-unquote, develop resources. We were a 501C-3 or a nonprofit organization. So I led efforts to develop and secure resources to launch workforce programs, college and career readiness type programs at local schools or other nonprofit agencies. That was roughly half my job.

The other part of my job was to prepare and deliver reports, make presentations on labor market information for the greater Spokane region, which, roughly, at the time was considered a three county metro area in eastern Washington.

Q. And how long did you --

(Parties speaking simultaneously.)

Q. I'm sorry. Go ahead. I thought you were finished.

A. Is that a sufficient description?

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Q. Absolutely.

How long did you hold that position?

A. October of 2013 through the time when I joined Chmura, so Junish of 2015.

Q. And your job that you had prior to that job, was it in a similar type of industry?

A. Yes, it was in the nonprofit sector in more education-related, but there were overlaps with workforce and industry engagement.

Q. And who was that -- who were you employed by at that time?

A. Mobious Spokane, M-o-b-i-u-s.

Q. And how long were you employed with Mobious Spokane?

A. I was an employee from -- I don't recall. Nearly two years prior to joining their team. They were a client of mine for maybe three to four months.

Q. Okay. And a client of yours, what was your position before you joined -- who did you work for before you joined Mobious Spokane?

A. I was a sole proprietor.

Q. What kind of business did you

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operate?

A. Nonprofit consulting, proposal writing and research.

Q. And that would be writing proposals to get grants and sources of funding; is that what you were doing?

A. Correct.

Q. And is that what you did before you -- so, up until the time you joined Mobious Spokane, is that what you were doing, operating your sole proprietorship?

A. No. I mean, that's what I was doing, but I also worked at a local restaurant.

Q. Turning now to your time with Chmura, I believe, if I have this down correctly, within roughly the first week or so, your title in 2015 was applied economics -- and did I hear this -- technology advisor?

A. Correct.

Q. Can you briefly describe what that position entailed?

A. Yes.

Q. Would you do that for the record, please?

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A. Sure. So at the time -- I'm going to break this down into roughly the first few months, the period of time that I was located in Richmond, and then I'll describe what I did when I returned to Spokane.

So the time that I spent in Richmond in those first few months, you know, aside from getting oriented and acclimated to Chmura, I worked on several proposals, competitive bids, if you will. From what I recall, they were all to local governments and nonprofits. I remember one to Goodwill Industries, which would be a nonprofit, and then several to local governments or similar.

I spent a lot of time working with the sales team because I was a user, I was a client of Chmura for almost two years, I believe, and I was a very active user of their software. Arguably, more importantly, I was a client of Chmura's main competitor EMSI. So I spent a lot of time not just with the sales team but with Chmura as a whole developing approaches, what we describe as use cases, so, you know, how does a prospective client or



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user, how would they apply mainly JobsEQ, also other products, LaborEQ and Career Concourse, but the bulk was related to job JobsEQ.

Are you still there, Chris?

Q. I'm still here. Christine saw this last week. For whatever reason, we have -- periodically my video will cut out, but I am here by audio the entire time.

A. Great. I just don't want to repeat myself.

Q. So you were describing --

A. Thank you.

So I spent a lot of time developing use cases, helping members of the team to understand, I'll say, the value of the product through the different audiences that we served, mainly economic developers, workforce developers, eventually a little bit of education -- the education market. And like I said, I spent a lot of time writing proposals.

When I returned to Spokane, we -- the other thing I was doing quite a bit of, probably after one month, was on onboarding new clients. So a member of the sales team would

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close a deal, and that new client would receive training. At the time we provided one-to-one trainings, one Chmura staff to one client, which could be four users, that was rare that all the users would show up. But all new clients were either referred to me or to Greg Chmura, who at the time -- you know, I don't recall -- I don't -- I don't think he was the chief quality officer, but he was really -- I think historically, he and another colleague, Allison, had been doing all the training. So I came in and took over -- if I recall correctly, I think Allison stopped doing trainings, if she was ever doing them in the first place. But I think just given Greg's bandwidth and his increasing responsibilities, I probably started to deliver the bulk of those trainings.

So when I returned to Spokane, I continued to deliver trainings, of course, but what we did was we -- you know, we -- it wasn't a hard agreement, but between Greg and I, we tried to arrange things so that I would do the trainings for clients in the mountain and Pacific time zone, maybe clients that weren't

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2 available, you know, I guess, at certain hours,  
3 I don't recall.

4 But we also hired another inside  
5 salesperson in the Spokane office, and that  
6 position was more or less dedicated to  
7 prospecting western states, maybe some mountain  
8 time zone, I don't recall, but, you know,  
9 certainly west of the Mississippi.

10 And Richard -- maybe a gentleman --  
11 I think his name was James, I forget -- they  
12 had some clients in the western states.

13 Q. Mr. West, let me just stop right  
14 there so the record is clear, when you say  
15 Richard, are you referring to Mr. Lombardo?

16 A. Yes. I'm sorry. Rick.

17 Q. And you mentioned James?

18 A. Should I call him Mr. Lombardo or  
19 Rick?

20 Q. Either one of those is fine. I just  
21 wanted to make sure we knew who you were  
22 referencing when you said Richard, and so the  
23 record would reflect that.

24 You also mentioned a gentleman named  
25 James. Do you know his last name?

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A. I believe it was James Donovan or Jim Donovan.

Q. Sorry to interrupt. Go ahead. I just wanted to make sure the record is clear.

A. So just -- so Jim, if I recall correctly, those two started the inside sales team. They were the first two hires when Wesley laid out this -- you know, the inside sales team. So Jim was located in Cleveland, alongside Rick. And I think --

Q. And was any -- were they already employed when you became employed, or did they become employed after you did?

A. You know, they -- I believe they came onboard roughly around February -- I think they were hired at the same time because my impression was the inside sales team was a new thing and it was starting that year, and it was roughly 2015. And I remember this because the first time I met him was at an event with -- where Chris and Leslie were, and I believe it was both of them in March, at an event that's always in March, and I think they were brand-new, especially Jim, I remember he was

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just -- I think I'd given a presentation with Chris, and Jim was just kind of excited and eager to learn.

And at the time, of course, I wasn't working for Chmura, but I don't even know if he was doing demos yet. I think he probably was, but he just wanted to consume a lot of information. And I remember meeting Rick at the time as well in the booth with -- I think it was just Chris and Leslie at the time.

Q. Okay. And you described your -- you were describing your job duties once you got to Spokane and --

A. Yes.

Q. -- and with some interruption.

But were there other job duties you had while you were the Applied Economics and Technology Advisor?

A. Yes. So we hired another inside salesperson to focus on the western states. They were co-located with me here in Spokane. That person's name was Dennis Shell. And you know, it was my job to train Dennis on how -- you know, on JobsEQ, so I spent a lot of time

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on training Dennis.

After Dennis, we hired another -- I don't recall the sequence. I think we hired a gentleman named Doug Cey, C-e-y, the brother, if you're a baseball fan, of Ron -- the baseman, Ron Cey, so Doug is his brother, just for the record, so you spell the last name right.

And then we had a gentleman named Brent, last name Keath, K-e-a-t-h, and I don't know who came after Dennis. But so all of those individuals I trained on JobsEQ. I worked with them on their sales script. I made introductions, even though I wasn't a member, per se, of the sales team.

They didn't report to me, and I don't know that I was their supervisor, but I certainly worked with them a lot. We didn't have a training program in place, I would say. So I spent a lot of time working with the different -- especially the new sales team members and certainly in the Spokane office, working on their demos and use cases and things of that nature.

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2 And then I also worked on a few  
3 projects, client-facing projects. I traveled  
4 to -- you know, so these would be things that  
5 we would submit a proposal for, you know,  
6 through a competitive solicitation process, and  
7 we'd get awarded the contract, so I would  
8 contribute to those projects.

9 Sometimes I would travel to  
10 different client sites, for example, Dallas and  
11 San Bernardino, California to engage clients  
12 during a project or to present the findings for  
13 a project. Denver, Colorado, actually with a  
14 gentleman from your firm, good guy, I forget  
15 his name. It was an impact study.

16 Anyway, so I would travel to  
17 conferences. I would attend conferences.  
18 We -- you know, we tried to assign me to  
19 conferences that were located in the western  
20 states, for example, in California, but I often  
21 attended conferences that were in other places  
22 as well, especially if they were workforce  
23 related, like the National Association of  
24 Workforce Boards.

25 And I attended economic

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development-type conferences, a couple of education conferences. So, you know, I feel like I certainly, you know, would represent Chmura at various types of events.

I think that's -- that first job title, I would say that's kind of the general description.

Q. And you had referenced what you were just saying, and I was trying to get it down, I may not have gotten down the exact wording, but particularly with new sales associates or account managers, you helped them with their sales pitch; did I hear that correctly?

A. Correct.

Q. And would each person have an individual pitch that would work for them?

A. I don't know if I would go that far. I recall early on at all -- I believe all email correspondence, the account managers were to copy Leslie, and I see Leslie is here, so she could corroborate this. And she would, I think, provide, you know, guidance on the way scripts were. So I don't know -- I wouldn't say that everybody had their voice.



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2 Chmura certainly has a pretty rigid  
3 style, if you will, style, voice, identity, and  
4 I don't think -- I don't think people just kind  
5 of threw their own original scripts out there.

6 What I did was I really contributed  
7 to the use cases, so a lot of the prospecting,  
8 if not all of it, is over the phone, through  
9 email, and you're making hundreds of calls or  
10 emails every day. The script isn't unique. I  
11 mean, every time you're really maybe modifying  
12 an existing or underlying script.

13 So I think there -- you know, in the  
14 moment, there was probably some flexibility  
15 that something would reflect somebody's voice.  
16 And, of course, everybody has unique  
17 personalities, but I don't think they had free  
18 rein to, you know, bend communication that just  
19 reflected their own style and voice.

20 Q. During this position, the Applied  
21 Economics and Technology Advisor, how much --  
22 what percent of your time would you say you  
23 were spending on interacting with the sales  
24 team?

25 A. At least one-third.

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Q. And at some point did you take on a different position at Chmura?

A. I did.

Q. And do you recall when that was roughly?

A. Yeah. So the next position I took on was the managing director of sales roughly February of 2017.

Q. And how did that -- how did your job duties in that position differ from the job duties you had as an Applied Economics and Technology Advisor?

A. Well, I mean, they changed quite a bit because I shifted my focus almost entirely to managing a sales team. And at the time we had hired three new inside salespeople. I believe they were all -- I believe they were all focused on education. So there was Wilson, Jennifer, and John.

So they were hired before I began, but I recall we had limited bandwidth internally to manage and train and get this team up and running. So, you know, it was a lot of work to get everybody acclimated. I

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2 recall every week we met, you know, virtually,  
3 because we had Jennifer was in Richmond, Wilson  
4 was in Richmond, John was in Cleveland, I was  
5 in Spokane, so we met multiple times per week  
6 to do trainings, to practice demos, to ask each  
7 other questions, do these things they call Rah  
8 Robins, et cetera.

9 And I also started to really  
10 leverage our customer relationship management  
11 platform called Salesforce to get a clearer  
12 idea of sales team activity, to compare the  
13 performance and output of different sales team  
14 members.

15 So I would prepare these weekly  
16 dashboards and share them with the leadership  
17 of Chmura, and I think the sales team was  
18 probably on those, you know, correspondence as  
19 well.

20 So I would meet with the sales team  
21 probably two to three times per week. And then  
22 I believe I would meet -- and I met with Leslie  
23 at least once -- scheduled at least once per  
24 week, I think on Mondays. You can look in the  
25 Outlook records, I'm sure. And then I think we

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2 had a monthly meeting with leadership and  
3 sales, I believe. I'm sure that's in the  
4 records, too, but I don't recall.

5 But I certainly focused a lot more  
6 of my time and energy on the sales team and  
7 getting them acclimated, up and running. I  
8 still continued to work on a couple of  
9 projects. I remember one in Dallas and then  
10 one in California -- or two in Santa Cruz and  
11 San Bernardino. So maybe 75 percent of my time  
12 was committed to managing the sales team, 75 to  
13 90 percent, I would say.

14 Q. And you were referencing getting the  
15 sales team up and running, are those the three  
16 individuals that you referenced that were hired  
17 either right before you started in the position  
18 or right after?

19 A. They were hired before I started in  
20 the position. I have no doubt about that  
21 because it -- there was just a lot of turmoil,  
22 I would say, at the time. And a lot of that  
23 was related to these new persons not having  
24 guidance or support, not knowing what to do.

25 So I spent most of my time with

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them, but I also spent a tremendous amount of time with Austin virtually, as well as Rick.

Q. And who is Austin again? Just so the record is clear, do you know Austin's last name?

A. That's Austin Steele, S-t-e-e-l-e, I believe.

Q. And the three individuals that you referenced to were hired shortly before you took over the position or assumed the position, did they have a sales background, do you know?

A. Yes. Well, yes. So, yes, Wilson did, John did -- John also had a background in maybe a lab industry. I don't know -- I don't -- I don't recall specifically what he did. Jennifer, I never actually knew. She was hired, I believe, through like a temp agency. I'm sure that she was, you know, an experienced inside salesperson. I don't -- I know that the temp agencies do their vetting, and we would create -- because we did this in Spokane, we'd create a very specific profile of the kind of candidate that we wanted, so I am certain that they all had a sales background, yes.

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Q. Did it take a lot of effort on your part to get those three individuals operating the way you wanted them to within the Chmura family?

A. Yes.

Q. Roughly, just so we know, is this a lot of effort over a week or two, or are we talking a month time framed to get them how you thought they would?

A. More than a month.

Q. More than a month. Okay. And how long were you in that position, do you recall?

A. Well, I mean, I do recall, you know, roughly September 2017.

Q. So is when you switched to a new position?

A. Yeah. I mean, it's not that clear-cut. I don't know that I had a title change until January of 2018, but I -- my duties changed.

Q. Let's address that in two ways. First of all, when you did get a title change, whenever that was, what was your new title?

A. Director of Workforce Development.

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Q. And now the second part of that, you referenced your job duties changed, how did your job duties change?

A. Well, I believe, and you could, of course, confirm this, but I believe that Greg Chmura began to kind of take over more of the management of the sales team, and I recall that I started to do some research and develop a plan or blueprints or what would become a web-based training platform for JobsEQ clients.

And I don't recall -- you know, it wasn't immediate that I stopped, you know, having interactions or, you know, management responsibilities related to the sales, but Greg certainly started to take things over, I would say. And I can't put a date on that.

Q. Sometime roughly Septemberish -- it began Septemberish of '17?

A. September/October.

Q. Okay. And you mentioned the work you were doing on the web-based JobsEQ, was that a substantial project?

A. Yes.

Q. And were you successful in

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accomplishing that project?

A. Yes.

Q. And do you recall roughly how long it took you to get that project completed?

A. Yeah. You mean in terms of duration or hours or --

Q. Duration. Calendar duration.

A. Yeah. So I delivered the project by November of 2018.

Q. So it was a yearlong project?

A. Well, not quite, but looking at a calendar year.

(Parties speaking simultaneously.)

THE COURT REPORTER: You were talking over each other.

Q. Was it generally a yearlong project?

A. Based on the calendar, yes. But I wasn't only working on that project in November and December of 2017. I was working on other things, and I was gone for the month of January, 2018, and I was gone for the month of April 2018.

I also worked on a project during -- you know, other projects during that time, but



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if you look at calendar, yes, Novemberish to Novemberish.

Q. And I just want to make sure I understand, when you say you were gone in January of 2018, were you gone working on another project, or were you taking time off from work?

What do you mean by you were gone during that period? It wasn't clear to me.

A. Chmura extended me a leave of absence for two months.

Q. And that leave of absence was -- was it a month of it in January of 2018, and then the other period you said you were gone was also part of the leave of absence?

A. Correct.

Q. And when was the -- just I'm clear, when was the second period of that leave of absence?

A. The month of April, 2018.

Q. And so you also referenced other projects you were working on during that time. Do you recall the types of projects? And "by that time," I mean from roughly September of

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2 2017 until November of '18, other types of  
3 projects you were working on?

4 A. Yes. Well, at least one of them was  
5 a project for an economic development agency in  
6 California, San Bernardino county.

7 Q. Anything else during this time  
8 period that you were focusing your work  
9 attention on?

10 A. Not that I recall. I mean, I'm sure  
11 there were other things, but that was the  
12 major -- those were the major things that  
13 consumed my time.

14 Q. The JobsEQ web-based project you  
15 were doing and some of the other projects that  
16 you mentioned that were interspersed in there;  
17 is that correct?

18 A. Correct. I don't recall, but Career  
19 Concourse might have been during that time.  
20 That might have been when I was managing the  
21 sales team. I don't recall. It was after -- I  
22 believe after I was an applied technology and  
23 whatever -- Applied Economics and Technology  
24 Advisor.

25 Q. So I'm clear, you mentioned Career

1 KYLE WEST

2 Concourse, what is Career Concourse?

3 A. It's a career exploration software.  
4 Just another product in the suites of products.

5 Q. And so you had a project to work on  
6 Career Concourse or develop it, or what was  
7 your project with Career Concourse?

8 A. I was a contributor to its, I guess,  
9 revamping or revitalization. So John Chmura  
10 provided me with mockups, if you will, like  
11 examples, screen shots, and then Greg and I  
12 worked on a questionnaire. And I went out to  
13 campuses, and I would ask students -- you know,  
14 I would basically get their reaction to the  
15 mock -- the different screen shots. Just part  
16 of product development. I was a minor  
17 contributor, but that was another product at  
18 the time.

19 Q. Were you involved in the decision to  
20 revamp Career Concourse at all?

21 A. Well, I was part of the  
22 conversation, yes. I wouldn't say I was  
23 involved in the decision. The decision was  
24 made -- I forget the name at the time, but what  
25 is now the SEA Group under the equity partners.

1 KYLE WEST

2 I remember a few conversations, one  
3 specifically, because I was commuting to  
4 conference -- I was driving down the freeway to  
5 a state development conference, and we were  
6 having the SEA Group meeting, and one of the  
7 major topics in that meeting was Career  
8 Concourse and what to do with it.

9 Q. And do you recall John Chmura wanted  
10 Career Concourse to be basically put out to  
11 pasture; is that correct?

12 A. I definitely had that impression,  
13 yes.

14 Q. Others involved, Mr. Lombardo, for  
15 example, really thought Career Concourse was  
16 necessary to further Chmura's sales goals,  
17 correct?

18 A. I don't recall that. I don't recall  
19 Rick being very involved in the education,  
20 quote-unquote, vertical. I couldn't say. I  
21 don't think -- I really couldn't say. I  
22 definitely don't recall him being involved in  
23 conversations about Career Concourse. I am  
24 inclined to think he would rather not deal with  
25 Career Concourse.

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Q. And at some point, did your job title change again?

A. Yeah. Where did we leave it? It was Director of Development?

Q. Correct.

A. Yes, it did.

Q. And what did it change to?

A. Director of Business Development.

Q. And when did that change occur?

A. Again, it's not totally clear, but I'm going to say January of 2019, I think it was probably official. January of -- December 2018, January 2019 -- I'm sure this is in, you know, HR records or something like that, if it's important.

Q. And did your job duties change at that time?

A. They did, yes.

Q. How did your job duties change?

A. I mean, they changed dramatically -- you know, through November of 2018, I had been -- you know, more than three-quarters of my time was committed to this training program. So when I changed positions, kind of the

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administration of this program -- are you still there, Chris?

Q. I'm still here. I just had another incidence where the video cut off.

A. Yeah. So you know, we were enrolling clients in this program. So there's some back end kind of admin work besides the troubleshooting because we used different types of software. We had platform that hosted --

Q. Let me stop you there again just for the record clarity.

When you say "this program," is this the web-based JobsEQ?

A. Correct. I believe it's called JobsEQ FIT. So I will refer to it as JobEQ FIT, F-I-T.

Q. Okay.

A. So I developed the content. I loaded the content onto another vendor's software, and then I would enroll users, and I would, you know, assign them to courses, and make sure that they -- you know, that they are getting through the content, making sure they are logging in. We had a lot of credential

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password type issues. Things like that.

So at some point in the fall -- I think in the fall of 2018, we hired a gentleman -- I don't know if it was summer or fall -- Wesley Michaels was his name, and I forget what his title was. I think he was on Greg's team. I believe he was on data governance. So it was decided that Wesley would take over the administrative aspects of JobsEQ FIT and updating content, things like that.

So I probably spent the month of December and part of January -- not the entire four to six weeks, but a good chunk of it working with Wesley kind of onboarding him, helping him to get acclimated to the content, how to update it, how to create new content, manage the administration, you know, assigning courses, all that stuff, right.

So when he was, I'll say, up and running, I stopped doing all of that. So you know, my job description really changed quite a bit. I remember in the middle of January, I believe, 2019, I traveled to Richmond. There

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was a meeting. I remember it was kind of put together hosted by a gentleman named Curtis Monk who I -- I don't know what his title was, but he was kind of an interim type, I mean, he managed the sales team, right. So I think he was brought in, you know, kind of on a temporary basis. He was retired, I believe, but I remember coming to Richmond in January, and I had laid out kind of my plan, my business development plan, and I had -- you know, I had some feedback from Leslie because I recall I shared elements of the plan beforehand.

So really in January, after that meeting in January of 2018, I think you could say I was just about fully committed to business development. And what that entailed was prospecting for partners, vendors, the partners including vendors and like professional organizations, member-based organizations, entities that, you know, we have a potential synergy with, so a professional association, let's just say of educators.

There may be a lack of awareness amongst educators about our software. So



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rather than try to engage thousands of educators, if we engage an association, we can leverage the association to make our products visible to their membership. Vendors we had some -- you know, we had some historical correspondence with a couple of vendors, for example, GIS WebTech would be one, so, you know, they're a complement vendor, they are in the same space serving a shared audience, but not directly competitors with us.

So vendors like that I approached several basically as, you know, with the exception of them, several others that I prospected to see if they were interested in possibly working together.

We had plans, and we did execute -- we had plans for me to travel to different parts of the country where we had a high concentration of JobsEQ users. So I remember, you know, I went to the Carolinas, Charlotte, North Carolina and the greater -- I went from Charlotte to Raleigh and visited clients in between. I visited about ten clients on that trip over four days.

1 KYLE WEST

2 I did something similar in Dallas  
3 with a colleague, and I think that we had  
4 planned on doing three of those events, if I  
5 recall correctly. We only did two.

6 But the planning and the execution,  
7 you know, certainly was part of my job  
8 description. I was involved in some aspects of  
9 the planning for the user conference in 2019.  
10 That was in Orlando, working with another  
11 colleague, Kim.

12 You know, I think that's roughly  
13 about it. I still prepared a few proposals --  
14 project proposals or bids. I don't recall -- I  
15 was working on one before my last job change to  
16 a community in Texas, Middle Rio Grande or  
17 Grand, I forget.

18 But I really, I would say, focused  
19 more on the -- and I still wrote proposals. I  
20 wrote a lot of proposals to present at  
21 conferences, and I continued to travel to a few  
22 conferences, and I would make presentations on  
23 research that folks in Richmond had done. But  
24 I started to travel less.

25 Q. Do you know who was managing the

1 KYLE WEST

2 sales team at that time?

3 THE COURT REPORTER: You spoke over  
4 each other.

5 Q. Just so I'm clear on my question I  
6 know you mentioned Mr. Monk, but I thought you  
7 indicated that he was in a room or some type of  
8 position that. Was Mr. Monk the manager, do  
9 you know, of the sales team at that time?

10 A. For a period, yes. I don't --

11 Q. And that's -- you --

12 A. You have to -- I'm sure there's a  
13 record. I don't know if he was hired as  
14 interim. That was my impression. I can't say  
15 for sure. I believe it went from Mr. Monk back  
16 to Greg, and then we hired Ely. I forget his  
17 last name. I don't know if Greg was between  
18 Ely and Mr. Monk. I think Mr. Monk left  
19 abruptly. So I have to think that Greg took  
20 over between Mr. Monk and Ely.

21 Q. And were you -- was the Director of  
22 Business Development, was that your job title  
23 until the end of your employment with Chmura?

24 A. No.

25 Q. What was your next job position with

KYLE WEST

Chmura?

A. Interim business analyst. I don't recall.

Q. Do you recall roughly when -- your --

(Parties speaking simultaneously.)

Q. Do you recall roughly when your job title switched or changed?

A. Maybe March. The title changed after the duties.

Q. And when you say in March -- when you say in March, would that be of 2019 or 2020?

A. 2020.

Q. And how did you -- you referenced before that your job duties a changed. How did your job duties change?

A. Well, some of the things that I had been working on were reassigned to other people, you know, prior to the official change, and I started to participate in some aspects of a new job, but I don't believe my title was actually changed.

Q. What were those aspects of the new

1 KYLE WEST

2 job that you were referring to?

3 A. For example, on Monday mornings,  
4 there's a standing meeting or a ceremony, we  
5 call it, a product communications team, and  
6 it's a -- you know, it's largely a product  
7 development ceremony that I started to  
8 participate in, you know, maybe mid January. I  
9 don't recall.

10 Q. Okay. And at some point did your  
11 employment with Chmura end?

12 A. It did.

13 Q. And do you recall when that was?

14 A. So my resignation date was April  
15 15th.

16 Q. April 15th of 2020? April 15th of  
17 this year?

18 A. Correct.

19 Q. And you said your resignation date,  
20 so it was a voluntary resignation?

21 A. Yes.

22 Q. And are you currently employed?

23 A. Yes.

24 Q. And where are you employed? With  
25 whom are you employed?

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A. Big Brothers Big Sisters of the  
Inland Northwest.

Q. Of the Inland Northwest?

A. Correct.

Q. And what is your position with Big  
Brothers Big Sisters?

A. I'm the chief executive officer.

Q. And during your time when you were,  
again, discounting or not including the time  
that you spent in Richmond, Virginia, other  
than that, you referenced a Spokane office,  
were you always -- did you change offices? Did  
you work from home? What was your work  
arrangement like in Spokane?

A. We had three different offices.

Q. In different times?

A. Correct.

Q. Was there ever a time you were  
working from home, or was there always a  
physical office to go into?

A. There was always a physical office  
to go into.

Q. And I know you've had a bunch of  
different job titles with different job duties.

1 KYLE WEST

2 Was there a general normal workday while you  
3 were employed with Chmura; in other words, a  
4 time that you'd go into the office, a time that  
5 you'd leave, or did it change depending on the  
6 job title?

7 A. Yeah. I mean, it definitely  
8 changed. So the expectation was that I would  
9 be at the office until 5:00 p.m. my time to  
10 support virtual chat. So if somebody's using  
11 our software and they have a question,  
12 everybody, you know, everybody else is in the  
13 eastern time zone, so I'd be the last person  
14 there Monday through Friday. I typically  
15 arrived between 7:00 and 8:00 a.m. local time.  
16 Sometimes a lot earlier.

17 When I started working with the  
18 product team this year, they were like, for  
19 example, those Monday meetings, product  
20 communication team meetings. Those are 6:00  
21 a.m. meetings for me, so every Monday, at least  
22 for 2020, I started my workday at 6:00, and I  
23 would leave at 3:00 p.m., which is not  
24 something that, you know, historically had been  
25 my schedule. But, you know, roughly, say, 7:30

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or 8:00 to 5:00.

Q. Monday through Friday?

A. Correct. And, you know, travel sometimes as needed on weekends -- if we traveled on a weekend, we could take -- I think, what's called a comp day. We could take a weekday off to be with family or whatever, run errands.

Q. I wanted to go back through -- you talked about your different positions and talked about your interaction with Mr. Lombardo during each of those positions.

So if you'll bear with me, starting when you were manager, director of sales, how regularly were you interacting with Mr. Lombardo?

A. Gosh, between email and phone, maybe 20 times a business day.

Q. Okay. And was that primarily by email, primarily by phone? How would that break down?

A. Primarily by phone. I don't -- you know, I couldn't provide you a reliable breakdown, but I would say primarily by phone.



1 KYLE WEST

2 Q. And when you were interacting with  
3 him by phone, would that be -- you would use  
4 your office phone? How would you communicate,  
5 or how would you call Mr. Lombardo?

6 A. Both office and mobile.

7 Q. And if you can break it down, would  
8 it be primarily one or primarily the other, or  
9 just depended?

10 A. Well, definitely, you know, during  
11 business hours, my office phone. By he got to  
12 the office or, you know, after he left the  
13 office, my mobile phone generally.

14 Q. And how often would there be --  
15 would you have calls with him either before you  
16 got to the office or after he left the office?

17 A. Probably four days a week.

18 Q. What would those calls consist of?  
19 What would you guys be discussing on those  
20 calls?

21 A. Any number of things.

22 Q. And do you know roughly how long the  
23 calls would last?

24 A. Well, when I moved my office, so  
25 June of 2019, I shortened my commute, and, you

1 KYLE WEST

2 know, before that, I would talk to Rick  
3 regularly probably for a bit longer, you know,  
4 so I would talk to him pretty regularly on my  
5 way to work.

6 Q. Mr. West, let me stop you there so  
7 we can have the record clear. I'm talking  
8 right now just solely about your time as  
9 managing director of sales. So that would be  
10 February of '17 through I think it was roughly  
11 September or October of '17.

12 A. Oh, gosh. I don't recall the  
13 duration of calls, but I certainly talked to  
14 him on a regular basis before and after work.

15 Q. And would you talk to him about  
16 social matters, in other words, non-work  
17 matters? Did you consider Rick a friend?

18 A. Yeah. I mean, you know, we're not  
19 co-located, but we're colleagues and, you know,  
20 we see each other once or twice a year. But I  
21 certainly considered him a friend, yeah. We  
22 talked about sports. We talked about eating  
23 quite a bit. We talked about stuff that  
24 friends talk about.

25 Q. Again, during this roughly six,

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seven-month period in 2017, setting aside the non-work-related calls, how regularly would you speak with Mr. Lombardo by phone when -- after he had left the office?

A. I don't recall. Two or three times a week, maybe. I would think you could look at phone records. I don't know, but I know that if he didn't -- you know, he would either call me from his mobile or I would call; and if he's not at the office, I would call his mobile, vice versa, but I couldn't say.

Q. And do you recall the standard type of things work-related-wise that you would talk about after -- basically during his after hours when he'd left the office?

A. Yeah. I mean, he had most of the clients in the western states. So, you know, there are some clients in the western states that I might interact with in the virtual chat, especially some that were high maintenance. You know, and I would contact Rick certainly to let him know that I spoke to a certain client or something like that, you know, things of that nature.

KYLE WEST

Q. Anything else or any other specific types of work calls that you recall contacting him after he left the office during -- again, so we're clear, during this time that you were the managing director of sales?

A. I can't recall specifics, no.

Q. Okay. And now turning to --

A. I can recall calls about clients. I can recall a number of calls. I can't recall specifics, other than client stuff.

Q. Okay. And by client stuff, you don't recall specific names of clients; is that correct?

A. I mean, I can recall some names of clients. Do you want those?

Q. Who do you recall?

A. Well, definitely Soua Vang from San Bernardino, S-o-u-a, last name Vang, V-a-n-g. Definitely Ellie Chambers.

Q. Are these individuals -- are these individuals, or are they entities?

A. Well, I'm giving you specific individuals employed by entities who were clients or prospects.

KYLE WEST

Q. Okay.

A. What's your question?

Q. So for Ms. Vang, what do you recall talking with Mr. Lombardo about?

A. So Ms. Vang might come into chat, or she would actually call my desk phone, and she would have an issue: She doesn't know how to run a query in one of our analytics, so I would help her. I'd spend time on the phone, maybe I'd set up a virtual screen share to show her how to do something. And then I would call Rick and tell him what happened so that he could -- obviously, it's his client, so he's aware and he could record those things in Salesforce, our relationship management platform.

Q. And are those the type of calls that you were referring to that you recall?

A. Yes, generally.

Q. Do you recall -- and I know every call is different -- do you recall roughly how long the call you just mentioned -- roughly how long that call would last?

A. I don't know. I mean, we would, you

1 KYLE WEST

2 know, talk about all kinds of other stuff.

3 Q. And once you switched jobs and job  
4 responsibilities to Director of Workforce  
5 Development, I understood your testimony at  
6 that time you were focused on developing JobEQ  
7 FIT and a few other projects.

8 Did your interaction with Mr.  
9 Lombardo decrease when you were in that  
10 position?

11 A. It definitely decreased but it was  
12 still consistent.

13 Q. And would you still speak with him  
14 after he left the office from time to time?

15 A. Yes.

16 Q. Would that be less frequently than  
17 you were speaking with him when you were direct  
18 manager of sales?

19 A. Yes, I think so.

20 Q. And why would you be speaking work  
21 related-wise? I don't need to know any  
22 personal conversations you had, but why would  
23 you be speaking with Mr. Lombardo on a regular  
24 basis in your new position? When I say in your  
25 new position, when you were Director of

1 KYLE WEST

2 Workforce Development.

3 A. I mean, you've got to understand  
4 that Rick and Austin had more clients than  
5 anyone else. So not only am I reporting to  
6 them about my interactions with their clients,  
7 with our clients, but I'm also getting  
8 information from them because I'm working on a  
9 training platform. "So, hey, who is a good  
10 resource to talk about supply chain?" "You  
11 know, how -- what do you hear from your users  
12 about X, Y, Z?" "How does this sound?"

13 I think, you know, I was really kind  
14 of on an island working on these project, so  
15 the sales team was a good resource for me to,  
16 you know, maybe get an introduction to a user  
17 or to bounce an idea off of.

18 You know, plus, members of the sales  
19 team are people that I had worked with on a  
20 pretty intense level the year prior, so, you  
21 know, they had become my friends, so you could  
22 talk about music, you could talk about  
23 football. We're remote. So it's a way of  
24 breaking up the day.

25 So, I mean, I continued to talk to

1 KYLE WEST

2 Rick, you know, on a regular basis, as well as  
3 other members of the sales team.

4 Q. You mentioned --

5 A. I continued to work like virtual  
6 chat, for example, and had a lot of  
7 interactions with clients and users.

8 Q. And you mentioned Rick, Mr.  
9 Lombardo, he was a senior account manager,  
10 correct?

11 A. Yeah. I think he became the senior  
12 account manager around -- I believe that  
13 happened when I was managing the sales team, I  
14 believe, that him and Austin became the senior  
15 account managers.

16 Q. And during your time managing the  
17 sales team, were you able to observe Mr.  
18 Lombardo's performance as an account manager?

19 A. Yeah. I mean, that's what I did.

20 Q. Did you consider him to be a good  
21 account manager?

22 A. Well, I thought Mr. Lombardo was the  
23 best account manager, yes.

24 Q. He understood the best way to sell  
25 Chmura's products, in your view?



1 KYLE WEST

2 A. Well, I don't know if he understood  
3 the best way to sell Chmura's products. I  
4 think that depends on your perspective. But he  
5 knew how to -- he knew how to perform at a high  
6 level. I mean, Rick consistently recorded more  
7 activities than his peers.

8 So he was -- I always called him a  
9 freak. I mean, the guy was like an automaton.  
10 It was really, when you looked --

11 Q. Mr. West, I'll let you know that  
12 your screen -- your screen has popped off.  
13 There you go.

14 A. So, you know, every week, I would  
15 prepare these dashboards, and they were bar  
16 charts, basically every account manager, the  
17 volume of total activity, the type of activity,  
18 whether it's a phone call or an email; and  
19 Rick's bars were consistently well to the right  
20 of other members of the sales team.

21 The only person that ever came close  
22 to matching his output in terms of activities  
23 was Mr. Steele. But in -- you know, let's say,  
24 in the 40 weeks that I -- I'm sorry, what is --

25 Q. I don't know. Let's continue.

KYLE WEST

A. Okay. So the -- you know, in the 40ish weeks that I prepared these dashboards, I recall maybe twice that Austin either matched or surpassed Rick, and I suspect that's probably because Rick was, you know, on vacation or basically wasn't in the office performing his usual routine.

The other account managers at the time maybe hit half to three-quarters the output as Rick. So he was the high performer, absolutely.

I would not say that, you know, he -- you know, it was clear to me that leadership didn't like Rick's style. So I would never say that he knew the best way to sell products the Chmura way.

Q. Did you trust his judgment when it came to selling?

A. Absolutely.

Q. And -- I apologize. Hang on. Now it's my computer. Bear with me for a second. Can you guys hear me?

A. Yes.

THE COURT REPORTER: The court

1 KYLE WEST

2 reporter can.

3 MR. MICHALIK: We have a problem  
4 here. It is not letting me plug back in.  
5 Can we take a five-minute break? Is  
6 everybody okay with that while I try to  
7 figure out what is going on?

8 (A recess was taken.)

9 BY MR. MICHALIK:

10 Q. Before we had the technology  
11 interruption, you were talking about, and I  
12 don't want to put words in your mouth, it was  
13 something to trusting Rick's -- Mr. Lombardo's  
14 judgment with regards to sales.

15 Did you take advantage of his  
16 expertise in that area when you were working on  
17 the JobsEQ FIT?

18 A. Advantage of his expertise in sales?

19 Q. Well, you indicated -- as I recall,  
20 you were testifying when you had the new  
21 position, the Director of Workforce  
22 Development, you were still bouncing stuff off  
23 of Mr. Lombardo and Mr. Steele.

24 Was that based off of their  
25 knowledge and expertise as salespeople that you

1 KYLE WEST

2 had observed when you managed them?

3 A. I'm sorry. I don't understand your  
4 question.

5 Q. So you were -- you testified earlier  
6 that when you were Director of Workforce  
7 Development, you were still interacting with  
8 Mr. Lombardo, correct?

9 A. Correct.

10 Q. And some of that interaction was of  
11 a personal and friendly nature, correct?

12 A. Correct.

13 Q. And you indicated that you were also  
14 kind of an on island, so you would bounce ideas  
15 off of Mr. Lombardo and Mr. Steele, correct?

16 A. Amongst other people, yes.

17 Q. And my question was: In bouncing  
18 ideas off of Mr. Steele and Mr. Lombardo, did  
19 you decide to bounce ideas off of them because  
20 of their expertise or what you observed in  
21 their ability to complete sales?

22 A. No.

23 Q. Why did you bounce ideas off of  
24 those two individuals?

25 A. Well, one, because they were

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accessible; and two, because I felt they were the closest to the client, so I felt like they were a good resource to bounce ideas off of because they have the most correspondence with our clients.

Q. And were these ideas related to the JobsEQ FIT project that you were working on?

A. Sometimes, yes.

Q. And some of the other projects you were working on during that roughly year period?

A. Yes, I suppose so. I don't -- I'm not clear what you mean by their sales expertise. I don't understand how -- I wasn't selling anything. So JobsEQ FIT, I would argue, is a more technical product, you know, demonstrating how to use something, not trying to sell anything.

Q. As I understand your testimony, you would bounce things off those two individuals because they had the -- they were closest to the customers, something to that effect. I understood it wasn't their sales expertise. It was their interaction and relationship with the

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customers; is that correct?

A. Correct. They were also tasked with selling enrollments to the program for registrations.

Q. And so I understood your testimony there, and I'd asked if you were bouncing ideas off of those individuals related to the work you were doing on JobsEQ; and I understood that you said you were, correct?

A. Correct. Amongst other people.

Q. And then the line of questioning that I was asking was: Were you also doing that bouncing ideas off of those individuals related to other projects you were working on besides JobsEQ?

A. Not that I recall.

Q. Go ahead.

A. I just -- I don't -- you know, the inside sales team didn't have a lot of -- they would refer projects to us, like opportunities, say, but they weren't in a position to -- they really weren't involved with consulting projects, you know, aside from just, you know, referring their client to us because their

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client had a question or they've got a, you know, a bid that they are going to release, they regularly did that, but they didn't have any kind of -- they were never involved in executing a project.

Q. Mr. West, that wasn't my question.

I had simply -- you had testified, as I understood it, and I just want to make sure that I was clear on your testimony, that you would bounce ideas off of Mr. Steele and Mr. Lombardo; do I understand your testimony correctly?

A. Correct, with respect to JobsEQ.

And perhaps I misunderstood, but I thought I heard you ask if I would consult with them on projects outside of JobsEQ.

Q. I did. So -- I didn't use the word "consult." I used your words.

Would you bounce ideas off of those two individuals related to other projects beside JobsEQ FIT?

A. No. Only if it was a referral from an account manager.

Q. Now, moving to, essentially, your

1 KYLE WEST

2 last position. I know you held a position as  
3 Senior Business Analyst for a short period of  
4 time.

5 But your position as Director of  
6 Business Development, how regularly would you  
7 interact with Mr. Lombardo for work purposes in  
8 that position?

9 A. I couldn't say on a daily basis.  
10 But on a weekly basis, I would estimate 10 to  
11 15 times per week.

12 Q. What would you be interacting with  
13 Mr. Lombardo about on those occasions?

14 A. I don't recall specific details,  
15 but, you know, generally, we may have clients  
16 or prospects who are using a product from a  
17 prospective partner or maybe, you know, they  
18 was a conference where -- we wanted to  
19 attend -- one of the things I asked of the  
20 account managers was to send me -- you know,  
21 and this was mainly Austin and Rick, but send  
22 me -- you know, we'd look at a map of users and  
23 we'd pin locations of accounts. They have high  
24 a concentration of users in the state of  
25 Florida or in the Carolinas or in Texas, so I



KYLE WEST

would rely heavily on the account managers -- you know, I'd send, like, Rick, for example, a list of 60 accounts in Texas and ask him, you know, "Of these accounts, who are the high value accounts? Who should I try to prioritize reaching if we're going to be in the greater Dallas metro or in the greater Charlotte region?"

This month, May of 2020, I was supposed to be in Florida, which was, you know, another state where account -- account managers have 50-plus clients, so I would have regular interaction. They may have questions about how is the -- how is the fact that JobsEQ data are featured in this other vendor's product? What does the client get from that product that they also get from JobsEQ, or how are they different, how can I describe the relationship with this vendor?

You know, sometimes they might ask me to do -- to take a call or do a demo for specialized clients, but I couldn't say -- I couldn't get much more specific than that.

Q. Thank you.

1 KYLE WEST

2 And during this time -- so, again,  
3 while you're Director of Business Development,  
4 would you interact with Mr. Lombardo after he  
5 had left for the office for the day or left the  
6 office for the day?

7 A. Sometimes. Not nearly as much. I  
8 did continue to support the virtual chat, but,  
9 you know, I didn't talk to him anywhere near as  
10 much as I had historically.

11 Q. At some point, did you become aware  
12 that Mr. Lombardo's employment with Chmura had  
13 terminated?

14 A. Yeah. I don't know the official  
15 termination date. It wasn't clear to me if he  
16 was terminated or if he quit -- it wasn't  
17 clear, but I did become aware that he was --  
18 actually, I guess I wasn't sure that he was  
19 terminated.

20 My impression was that he didn't  
21 sign an employment offer or something. I  
22 don't -- at some point I became aware, but it  
23 wasn't clear to me, I'd say, for a number of  
24 weeks.

25 Q. Regardless of how it terminated, but

1 KYLE WEST

2 you became aware that his employment with  
3 Chmura ended, correct?

4 A. Correct.

5 Q. And at some point did Mr. Lombardo  
6 ask you to provide him with a letter of  
7 reference?

8 A. Yes.

9 Q. And did you understand that the  
10 purpose of that letter was to go to prospective  
11 employers that he was looking to obtain  
12 employment with?

13 A. Well, I assume that was the case,  
14 just that's what we typically use those letters  
15 of recommendations for. That was my  
16 impression, yes.

17 Q. And did you provide him with a  
18 letter of recommendation -- or a reference  
19 letter?

20 A. I did.

21 (WHEREUPON, West Deposition Exhibit

22 A: Email (CHMURA0151954) was marked for  
23 identification.)

24 Q. And bear with me. We get to see if  
25 technology works again. I'm going to hopefully

1 KYLE WEST

2 get this to pop up on the screen, so bear with  
3 me.

4 Hopefully, do you see a document on  
5 the screen now?

6 A. I see it. The font is very small so  
7 I'll try to enlarge it.

8 Q. I'm going to try to blow it up for  
9 you there.

10 A. I think I can do it. Yep.

11 Q. It's been marked as Kyle West  
12 Exhibit A. And just so we have it for the  
13 record, it has a Bates Number at the bottom  
14 CHMURA0151954. And please take a moment and  
15 review this document.

16 A. What -- what is it -- what am I  
17 looking for? Oh, I see it.

18 Q. Yeah, this is -- I'll just ask you  
19 about this and move on to the document I was  
20 going to -- intended to ask you about. Do you  
21 recognize this document?

22 A. Do I recognize it? Yes. It appears  
23 to be an email.

24 Q. Yes. It appears to be an email from  
25 you to Austin Steele dated February 18, 2019?

1 KYLE WEST

2 A. Yeah, that's clear.

3 Q. And so do you recognize this  
4 document?

5 THE COURT REPORTER: You spoke over  
6 each other.

7 Q. Do you remember sending this email?

8 A. Well, I mean, I trust you that I  
9 sent this email, yes.

10 Q. Okay.

11 A. I mean, it's certainly my signature  
12 and I've got a whole bunch of people -- you  
13 know, the people -- yes, I recognize it. I  
14 don't recall writing it. It's more than, you  
15 know, a year ago, but...

16 Q. I'm going to --

17 A. But --

18 (Parties speaking simultaneously.)

19 THE COURT REPORTER: I'm sorry. I  
20 didn't hear -- I didn't understand you.

21 A. I recognize it. I don't think it's  
22 not mine.

23 Q. Just so we're clear, Mr. West, you  
24 used a double negative. You don't think it's  
25 not yours, meaning you think it was an email

1 KYLE WEST

2 that was sent by you?

3 A. Correct. I don't understand why  
4 you're asking me if I recognize it.

5 Q. Okay.

6 A. I mean, it's obvious that it's an  
7 email that I sent.

8 Q. Bear with me. I'll try to pull up  
9 the document that I wanted. Hang on, guys, it  
10 did it again. Bear with me. Our IT is coming.  
11 It will just be a moment.

12 (WHEREUPON, West Deposition Exhibit

13 B: Reference letter dated November 24,  
14 2019 was marked for identification.)

15 Q. Mr. West, I now have a document that  
16 has been marked as West Exhibit B. I'm doing  
17 to try to blow it up so hopefully you can see  
18 it.

19 A. I can expand it.

20 Q. Can you see that?

21 A. Yes.

22 Q. And do you recognize this document?

23 A. Yes.

24 Q. And is this the reference letter  
25 that you drafted for Mr. Lombardo?

KYLE WEST

A. It certainly looks like it.

Q. If you scroll down to the bottom, is that your signature at the bottom?

A. Yes.

Q. In drafting this letter, did you -- is everything in that letter true, to the best of your knowledge?

A. Yes.

Q. From time to time, did you engage in text messages with Mr. Lombardo?

A. Yes.

Q. Again, so the record is clear, your letter -- moving to the next --

Mr. MICHALIK: Let's take a five-minute break while I get the technical person in here so I can get the document on the screen.

(A recess was taken.)

(WHEREUPON, West Deposition Exhibit

C: Text messages (Lombardo000508-512) were marked for identification.)

Q. Mr. West, you should now have on your screen a document that has been marked as West Exhibit C. And it's a five-page document.

KYLE WEST

Are you able to see that?

A. Yes.

Q. And if you take a moment and look through the pages, tell me if you recognize this document.

A. Well, it looks like a text message, and I have one page.

Q. Okay.

A. Can you point anything out specific?

Q. I'm trying to get it -- okay. So here's the second page.

A. Yeah.

Q. And --

A. Go ahead.

Q. And do you recall texting with Mr. Lombardo on Saturday, November 23rd and Sunday, November 24th?

A. I don't recall, but if that's what this is, clearly, it happened.

Q. And if you will look at the second page, the page we're on now, you see at the top it has To.Kylewest@gmail.com. It says, "No, I have to type it at work. Midafternoon probably unless our 9:00 a.m. gets canceled, then I



KYLE WEST

could type it at that time and have it to you  
by noon."

Is that the reference letter --

A. Yes.

Q. -- that you just reviewed?

A. That would make sense to me, yes.

Q. And then if you scroll down on this  
page, there's a text from Mr. Lombardo that  
says, "Other letter went out."

Do you know what letter he's  
referring to?

A. "Other letter went out." I do not,  
and I don't know who Butch is.

Q. Okay. And then from your tag -- I'm  
going to call it your tag line, the  
To.Kylewest@gmail.com says, "Nice. I'm on the  
phone again."

And then there's a response from  
that that says, "Check your email."

Do you recall receiving an email  
from Mr. Lombardo at this time?

A. No.

Q. And then we'll go to the next page,  
and this is a text stream dated Friday, January

KYLE WEST

31, 2020, and there is "got our court date" in blue, and then under your identifier, it's, "Oh, wow, does that mean LP and the others will get deposed?"

Do you recall texting with Mr. Lombardo -- specifically texting with Mr. Lombardo at that time?

A. I don't recall. But, again, clearly, it happened.

Q. Going to Page 4, it goes down to a date of Friday, February 7, 2020, and there's the text that says, "How did it go?" And a response from you, "Just dropped the mic. Check your email."

A. Yes.

Q. Do you recall that exchange with Mr. Lombardo?

A. Yes.

Q. Before we get to that, at the top -- there we go -- at the top, this is back to the January 31st date or 30th date where it was referencing a text about, "We got our court date," and you said, "I could call you back in a few minutes." And the text in blue says,

1 KYLE WEST

2 "Just call me in a few."

3 Do you recall having a conversation  
4 with Mr. Lombardo on the date that he announced  
5 he got his court date?

6 A. No.

7 (WHEREUPON, West Deposition Exhibit  
8 D: Test messages (Lombardo000480-489) were  
9 marked for identification.)

10 Q. Mr. West, I now have a 10-page  
11 document in front of you that's been marked as  
12 West Exhibit D. Do you recognize -- I'll let  
13 you look through this document.

14 Do you recognize this document, the  
15 first page of this document?

16 A. Well, again, it appears to be a text  
17 message.

18 Q. And we're on -- I'm sorry.

19 So do you recall texting with  
20 Mr. Lombardo on October 2nd of 2019?

21 A. No.

22 Q. Do you recall him informing you that  
23 he believed Wilson and he were not going to be  
24 treated well -- I don't need to say the word  
25 that's on there -- related to a restructuring

1 KYLE WEST

2 in the sales team?

3 A. Yes.

4 Q. And before he informed you of that,  
5 were you aware that Chmura was considering  
6 restructuring the salespeople?

7 A. Yeah, in some ways. You know,  
8 again, it was vague. Roughly summer of 2019,  
9 maybe even spring of 2019, there were kind of,  
10 I'll say, conversations about updating the  
11 different sales territories. I don't recall if  
12 we'd already hired new staff, but certainly  
13 there were plans, I believe, to hire additional  
14 staff. But I don't recall all the specifics.  
15 There were definitely conversations around  
16 that, yes.

17 Q. Were you involved in the decisions  
18 on what to do with the sales team?

19 A. No.

20 Q. Okay. And did Mr. Lombardo let it  
21 be known to you that he was unhappy with the  
22 potential changes?

23 A. I don't think it was clear -- I  
24 don't recollect, you know, obviously what does  
25 he say? "We're going to get fucked." So I

KYLE WEST

would interpret that as being unhappy. That's pretty clear.

Q. And I'm just going to ask -- make sure you recognize that the subsequent pages are texts between you and Mr. Lombardo. Do you recognize the second page?

A. Page 67?

Q. Yes.

A. With the dogs?

Q. Yes. Kyle West: "WTF." And then Butch: "That's what we post online."

A. Yes.

Q. And same thing, and maybe if -- do you recognize the third page of these documents as being texts between you and Mr. Lombardo?

A. I don't.

Q. Okay. And you recall Mr. Lombardo texting you -- I'm now on Page 4, at the bottom it has Page 72, Lombardo 000483, texting you, "They shut off" -- they being Chmura -- "shut off my JobsEQ email and Salesforce."

A. Yes, I do.

Q. Same question with number -- the next page, do you recognize this page?

KYLE WEST

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A. Page 73?

Q. Yes, sir.

A. Sorry. I'm scrolling. Yes.

Q. And do you have the ability to scroll to the next page, or do I need to do that for you?

A. I can't get past Page 73.

Q. All right. We'll just do it this way.

Same question, I just want to know if this is more of the same text thread between you and Mr. Lombardo.

A. Okay.

Q. Do you recognize this as being an additional text thread between you and Mr. Lombardo?

A. Well, it sure looks like it. I mean, I don't believe that you fabricated this.

Q. And so the record is clear, I'm going to ask you the same question with regard to Page 7.

A. What's the question?

Q. Is this part of a -- more of a text thread between you and Mr. Lombardo?

KYLE WEST

A. It looks like it, yes.

Q. Again, same question with Page 8,  
just so we have a clear record?

A. It looks like it, yes.

Q. And Page 9?

A. Yes.

Q. And then the last page, Page 10?

A. Yes.

Q. Now, earlier in your testimony you  
referenced a declaration that you gave to Ms.  
Cooper. Do you recall your testimony regarding  
a declaration?

A. Yes. I can't hear you, Chris.

(WHEREUPON, West Deposition Exhibit  
E: Declaration of Kyle West was marked for  
identification.)

Q. I'm bringing it up on the screen.  
Can you see the document that's now been marked  
as West Exhibit E?

A. Yes.

Q. And take -- I'm going to turn to  
Page -- we've gone through page 2 and we're now  
on Page 3, and you see paragraph 17?

A. Yes.

KYLE WEST

Q. And it says, "I never had a discussion with Mr. Lombardo regarding limiting his work hours or not exceeding a certain number of hours. Mr. Lombardo was permitted to work as many hours as he wanted."

A. Yes.

Q. Did you ever have any conversations with Mr. Lombardo while he was a Chmura employee about overtime or his receiving overtime?

A. Not that I recall. There were conversations about overtime, but I don't recall having one with Rick.

Q. Okay. And when you say there were conversations about overtime, there were conversations -- what conversations do you recall about overtime?

A. We had an inside salesperson, her name was Jennifer Ludvik, L-u-d-v-i-k, I believe, who was, at least my impression, she was terminated for working overtime and billing us, you know, for time and a half or double time, I don't recall, but we -- you know, it was an issue at the time.



1 KYLE WEST

2 And then it came up, I believe, in  
3 the wake of Rick's departure or maybe before  
4 Rick's departure, limiting the hours of sales  
5 team members not to exceed 40 hours, and I  
6 think they were prohibited from traveling.

7 You know, so I don't know if that  
8 was the summer of 2019 or the fall of -- again,  
9 I don't know if it was before or after Rick  
10 left, but...

11 Q. Okay. And were you involved in the  
12 decision regarding the individual you just  
13 referenced? Jennifer -- I didn't catch her  
14 last name.

15 A. No, not at all. I don't recall if I  
16 had already become the manager of sales, but  
17 that was a Richmond issue. It was handled in  
18 Richmond from what I recall.

19 Q. You had no involvement with that  
20 matter?

21 A. Not the decision to -- I had very  
22 limited information. I just remember that  
23 there was an issue with the contract from the  
24 temp agency and us not knowing that she was  
25 going to earn overtime. I'm not -- you know,

1 KYLE WEST

2 I'm not certain of the specifics.

3 Q. Okay. And with regard to other  
4 salespeople, you don't recall if the company's  
5 decision on how to portion out hours for those  
6 salespeople, if that was when Rick was employed  
7 or after he left? When I say Rick, I mean,  
8 Mr. Lombardo.

9 A. I don't recall and I don't even know  
10 what ultimately was decided. I'm not sure.

11 Q. I apologize. You kind of went very  
12 quiet. I -- you couldn't hear very good, the  
13 last part. What did you say?

14 A. I don't know -- I don't recall what  
15 was ultimately decided.

16 Q. Okay.

17 A. Can I turn Leslie's screen off?

18 Q. I think it's just up there.

19 So I'm going to go through and  
20 introduce a few more exhibits and just see if  
21 you recognize them. So bear with me.

22 (WHEREUPON, West Deposition Exhibit

23 F: Email (CHAMURA0054889-5492) was marked  
24 for identification.)

25 Q. You should have a document on your

1 KYLE WEST

2 screen that's been marked as West Exhibit F.

3 Do you see that document, Mr. West?

4 A. Yes.

5 Q. And I know we have to go page by  
6 page, but do you recognize the first page?

7 A. Well, I can't seem to expand this  
8 page to zoom in, like I could the others, so --  
9 but it does look like an email.

10 Q. Can you see it now? Did it expand  
11 for you?

12 A. It did not.

13 Q. Still no luck in getting it to  
14 expanding?

15 A. No. It's the same, but I'm okay if  
16 you want to read the first few lines for some  
17 context.

18 Q. Sure. It's from Kyle West at  
19 Kyle.west@chmuraecon.com, Monday, June 5, 2017,  
20 to Greg Chmura, Leslie Peterson, Chris Chmura,  
21 et cetera --

22 A. You don't have to read. I can see  
23 the names. I just can't really read the  
24 sentences.

25 Q. It says, "Rick, please see the

KYLE WEST

string below for some background. If you feel there's an appetite for this, then would you please reach out to the Omaha Chamber and the Charlotte Regional Partnership to discover if they would be willing to provide us with some feedback developing our widget solution? If so, then you can just coordinate with Greg and/or John but please keep me in the loop.

Thanks, Kyle."

Do you recall a situation working with widgets and having Mr. Lombardo reach out to the Omaha Chamber and the Charlotte Regional Partnership?

A. I do recall asking Mr. Lombardo to reach out to different clients. I don't recall this specific instance.

Q. You have no reason to dispute that this is an email that was sent by you?

A. No.

(WHEREUPON, West Deposition Exhibit

G: (Email (CHMURA0068218-68220) was marked for identification.)

Q. We have one last one. So bear with me. You should now have in front of you a

KYLE WEST

document -- an email that's been marked as West Exhibit G.

A. Yeah. I mean, again, I can see it. It's very small, so if you wouldn't mind reading the sentence, that would be helpful.

Q. Sure. You can see the people. It's from Rick Lombardo to you. Subject is "RE: Follow-up." And it just says, "Good morning, sir. I was just trying to send you the conferences that we can add to our list and make the decision on which one to attend. I would prefer Texas, but it is three days after the CareerSource Conference in Florida."

And that was a response to your email dated February 24, 2017 to Rick saying, "Good morning to you, too, Rick. I imagine Texas is a better event for us than the Ohio one? Or would you recommend we send reps to both?"

Do you recall making a decision on where to send -- what conferences to send reps to, whether Texas or Ohio?

A. Okay. I'm sure we wound up in Texas, but we would convene as a committee. I

1 KYLE WEST

2 think it was called a conference planning  
3 committee. So, you know, I don't recall the  
4 specific decision, but, yes, I asked these  
5 sorts of questions of the account managers, you  
6 know, maybe twice a year.

7 Q. Okay. And any reason --

8 A. I've been on -- I'm sorry. I  
9 participated in the conference planning  
10 committee for probably at least three years, I  
11 believe.

12 Q. No reason to dispute that this is an  
13 email chain between you and Mr. Lombardo?

14 A. No.

15 Q. Okay.

16 Mr. MICHALIK: I think I have no  
17 further questions subject to rebuttal.

18 THE WITNESS: Thanks.

19 MS. COOPER: I have a few questions.

20 This is Christine Cooper.

21 EXAMINATION

22 BY MS. COOPER:

23 Q. And just picking up where we left  
24 off here, can you describe what the conference  
25 planning committee is or was?

KYLE WEST

A. Sure. So, you know, I can recall back to Lauralee Savage, who I believe was the Director of Operations. I think she left in 2017, but I don't recollect precisely. I bring Lauralee up because I remember we -- as far back as I can remember convening this group. It was Leslie, myself, Lauralee, who eventually became Sharon Simmons. I don't recall if Sharon was always part of committee, but definitely the core group of Leslie, myself and then recently Avery Simmons, no relation to Sharon. She came onboard sometime last year and kind of joined this committee.

And roughly we might meet in the fall and then maybe in the spring roughly. And there's a Google Doc going back at least four years. I think it even goes back further than that. And it's basically an inventory of all conferences that we were aware of, conferences that we either attended or chose not to attend and, you know, there's some notes like the size of the event, the audience that attends the event, maybe it's real estate or workforce or economic development, who is the POC for the

KYLE WEST

event, is there an opportunity to submit a proposal to present, et cetera, et cetera.

It's a pretty robust document.

So we would huddle through a virtual -- for me a virtual meeting and review upcoming conferences, evaluate, you know, kind of pros and cons of different conferences and decide what to attend and update the document.

If we submitted a proposal to attend a conference and it was accepted, great, you know, it's more likely that we may attend that, or it will affect who we send, because we have to send somebody that can present. If it's not accepted, maybe, you know, we'll send somebody else.

So that was kind of the platform for discussion, I would say, is that, you know, Google Doc. And I think -- I don't recall a specific -- we didn't meet every month. We didn't meet once a quarter, but we met twice a year, I would say, and we would revisit it based on maybe budgetary constraints or new conferences that we became aware of.

So pretty common for an account



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manager to send us, you know, an email, maybe forward an email from one of their prospects or clients inviting us to a different conference generally in their region, or maybe it's for an association that the client belongs to, or maybe they think, "This would be a good association that's been hard for us to target. They have 10,000 educators that belong," et cetera, et cetera, et cetera.

So we would kind of discuss all those things and take it into consideration to, you know, make decisions around what to attend, who to send, how long to stay there.

Q. Was Mr. Lombardo on that committee at any point in time?

A. No, no.

Q. Would he ever decide what convention or conference to attend?

A. I mean, not that I was part of. I think he was certainly -- you know, the sales team definitely was, again, a resource to make us aware of certain opportunities or conferences, but I don't -- he didn't have decision-making, I don't know, authority. You

1 KYLE WEST

2 know, you couldn't just like book a conference.

3 It definitely went to the conference committee

4 or maybe directly to Leslie or something.

5 Q. I want to ask you about a couple of,  
6 I'm going to say, products. But that's  
7 probably not the right word, so you can correct  
8 my language.

9 There's been some testimony in the  
10 deposition so far about Mr. Lombardo's  
11 involvement with several different products.  
12 And I'm going to start with one that I think  
13 was brought up today, which is Career  
14 Concourse.

15 Do you know whether Mr. Lombardo had  
16 any involvement in developing Career Concourse?

17 A. Not to my knowledge. I was -- I  
18 contributed to, you know, certain aspects of  
19 that, and I never -- I don't recall interacting  
20 with Rick. It was mainly with John and -- John  
21 Chmura and Greg Chmura.

22 Q. What about a -- tell me if this is  
23 not a product -- but a program or product  
24 called Clippy?

25 A. So Clippy tool is a feature. Well,

KYLE WEST

I should say a -- it's a potential feature. It's on what we call the Roadmap. So this is a, you know, a large inventory of features to be developed. And it got, you know -- my audio is -- so the Clippy tool is, you know, one amongst probably more than 150 product features that are in our Roadmap.

And what the Roadmap is doing, it's based on feedback from clients and internal staff, including the sales team, chat team members. So if I'm monitoring chat and I get a request from a client, like, "Hey, why can't I get historical occupation wages", for example, then I can tag that chat, because it's a product request, right, so I can tag that, export it and it will go to the product development team, or it will go to a few different people. I think it goes to Greg, who technically might not be in product development. I'm not sure.

But, anyway, Clippy tool is a -- you know, it's a potential feature, and to my knowledge it's still -- it's definitely still on the Roadmap. And it's been, gosh, there for

KYLE WEST

at least three years, maybe.

We developed something called a QuickLink that was a kind of a holdover to Clippy tool. That's probably way too much information.

But, yes, I'm aware of the Clippy tool. It's a feature of a product -- of JobsEQ, a potential feature.

Q. Do you know how Clippy ended up on the Roadmap?

A. I've got a good idea. I mean, it's a -- it's what we would call a competitive gap. So it's a feature that we know our main competitor, EMSI in this case, has in their -- in whatever their platform is called, a competitor to JobsEQ Analyst, at least that's what it was called when I used it.

So it's been a competitive gap since I used the products side by side more than five years ago. So, you know, I mean, there's any number of -- if I look at the product Roadmap -- so we have a software called Prod Pad, and it's relatively new in the past few months when I joined the product development

KYLE WEST

team. We had this inventory of product features that we aimed to develop. And there's a column for feedback. So you've got the number of persons, whether internal or external, who have requested that feature, or at least we have interpreted their request. And this could be by email, it could be by phone, it could be by chat.

We have interpreted their request as a request for historic wages or Clippy. So I do know, I mean, I clearly recall that Clippy had -- you know, it's a -- it's one of those product features with more requests in terms of the volume of feedback than the vast majority.

I would make a very educated guess that it's in the top 20 of more than 150 features on the Roadmap in terms of volume of feedback.

Q. Do you know what Mr. Lombardo's involvement, if any, was in getting Clippy on the Roadmap?

A. I don't know, but I think -- I would assume that he, you know, shared amongst the X number of feedbacks, he -- you know, he is

KYLE WEST

represented in that pool of feedback given all the clients that he served, basically. I'm sure of that.

Q. Would he have any decision making authority in terms of developing or producing Clippy?

A. Not to my knowledge. Absolutely not.

Q. With respect to the Roadmap, did Mr. Lombardo have any input into prioritizing what's at the top of that list?

A. I mean, based on my understanding of how things get prioritized, no, aside from contributing to feedback and informing what we call or what we refer to as the use case. So if he, you know, or somebody has a prospect or a client who says, "Hey, we really like your tool, but what we really need is wages by ethnicity," or something like that, so, you know, Rick would -- it would be incumbent on Rick or the account manager, whoever it may be, to get more information to answer the question of, "Well, why do they want this, why does it serve economic developers," et cetera, et

1 KYLE WEST

2 cetera, et cetera. So I think you could say  
3 that by contributing to the content that is  
4 recorded in our -- you know, literally archived  
5 in Prod Pad on product management software, he  
6 has influenced the -- what features make the  
7 Roadmap, but there is an actual process --  
8 well, kind of.

9 We have a process for assigning  
10 scores based on the impact, the level of effort  
11 and the value of a feature. So it's a very  
12 specific process. And it's a group.

13 Q. So, I'm sorry. Go ahead.

14 A. There's a group that assigns values.  
15 I shouldn't say values, just -- I don't want to  
16 create confusion, but there's a team that  
17 assigns values linked to the level of effort  
18 required and the value of the feature. So that  
19 group makes decisions.

20 However, the Roadmap gets presented,  
21 I believe, on a quarterly basis to the SEA  
22 Group, and the priorities that come through the  
23 SEA Group don't always align to the priorities  
24 assigned by the product development team.

25 Does that make sense?

1 KYLE WEST

2 Q. Yes.

3 Was Mr. Lombardo ever part of the  
4 group that assigns values?

5 A. I don't believe so, but you'd  
6 have -- you know, well, I -- I don't believe  
7 so, not when I was involved.

8 Q. Was Mr. Lombardo ever part of the  
9 SEA Group?

10 A. Definitely not.

11 Q. Can you describe -- well, first of  
12 all, the term leadership has been used quite a  
13 bit throughout this matter. Can you describe  
14 for me who constitutes leadership?

15 A. Well, from my perspective, I think  
16 of leadership as the SEA Group. I forget what  
17 the acronym stands for. That's who I think of  
18 as Chmura's leadership. I don't know, you  
19 know, behind the scenes whether they vote or  
20 how many -- how votes are weighted. I have no  
21 idea. But that is certainly my impression, is  
22 that that's where decisions get made, and I  
23 believe that Chris has the most influence.

24 My impression is that even if a  
25 majority of the SEA Group did not agree with



1 KYLE WEST

2 something or want to pursue something, my  
3 impression is that Chris could override that,  
4 but I am not certain.

5 Q. And by Chris, you're referring to  
6 Dr. Chris Chmura; is that correct?

7 A. Chris Chmura, yes, yes.

8 Q. Were you on SEA Group or part of SEA  
9 Group?

10 A. No.

11 Q. Bear with me for one second.

12 As far as leadership management  
13 style or SEA Group's management style, can you  
14 describe that?

15 A. Off the cuff, no, I can't.  
16 Inconsistency, intimidating, threatening,  
17 insecure. I mean, I could go on with -- I'd  
18 be happy to prepare something in writing, but I  
19 think I would just be rambling. I could go on  
20 with easily 15 or 20 descriptors.

21 MS. COOPER: I don't have any more  
22 questions for you, Mr. West. I appreciate  
23 your time.

24 EXAMINATION

25 BY MR. MICHALIK:

1 KYLE WEST

2 Q. Mr. West, I have just a real quick  
3 follow-up.

4 A. Okay.

5 Q. Can everybody hear me okay? I was  
6 getting some feedback.

7 A. Okay.

8 Q. You were talking about this group or  
9 team that assigns values for the Roadmap. Were  
10 you ever on that team?

11 A. Yes.

12 Q. And what period of time were you on  
13 that team?

14 A. Roughly mid February to my  
15 resignation, early April.

16 Q. So just so we're clear, so mid  
17 February of 2020, you submitted your  
18 resignation?

19 A. Correct, when I became the Senior  
20 Business Analyst.

21 Q. And I'm taking it from what you were  
22 just saying in response to opposing counsel's  
23 questions, would it be fair to say you're not a  
24 fan of -- were not a fan of Chmura Analytics at  
25 the time you resigned your employment?

KYLE WEST

A. I don't think that would be fair.

Q. Were you unhappy with Chmura's leadership at that time?

A. I do feel like leadership failed, yes, but Chmura leadership is -- I would characterize it as dichotomous. So I really enjoyed working with certain members of leadership, and I really did not enjoy working with others.

So I experienced a string of specific incidents that led me to a tipping point. And when I reported that to Chris, the CEO, she told me to move on, and I didn't appreciate that, but I wouldn't say -- I wouldn't say it made me unhappy, you know, the style is such over time that I wasn't surprised by her response.

But I definitely felt like it was time for me to move on, which I felt for, you know, probably more than a year, but I think to their credit, maybe they sensed that maybe they really wanted to keep me around, but as you can tell, I rotated jobs quite a bit. But, you know, I had some -- I think had at the latest

1 KYLE WEST

2 transition occurred a few months beforehand, I  
3 would still be employed.

4 But, you know, the string of  
5 incidents that I experienced just kind of  
6 hardened my resolve to move on, and my mind was  
7 made up. So I wouldn't say I was unhappy. I  
8 think I was pretty well over it by the time I  
9 resigned. But I don't feel like I was unhappy.

10 I think if you asked me colleagues  
11 if I was unhappy, I don't think anybody  
12 would -- any honest person would say that they  
13 detected that in my mood or persona.

14 Mr. MICHALIK: No further questions.

15 (Time noted 5:40 p.m.)

16  
17  
18 \_\_\_\_\_  
19 KYLE WEST

20 Subscribed and sworn to before me  
21 this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

KYLE WEST

C E R T I F I C A T E

STATE OF WASHINGTON )  
COUNTY OF BENTON )

I, Monna J. Nickeson, a Certified  
Court Reporter within and for the State of  
Washington, do hereby certify:

KYLE WEST, the witness whose  
deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true  
record of the testimony given by such witness.

I further certify that I am not  
related to any of the parties to this action by  
blood or marriage; and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this day, May 26, 2020.

*Monna Nickeson*

---

MONNA J. NICKESON, CRR, RPR, CLR  
CCR #3322

KYLE WEST

## I N D E X

LOMBARDO VS. CHMURA

No. 3:19cv813

May 14, 2020

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KYLE WEST

## ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Chmura v. Lombardo  
 Dep. Date: May 14, 2020  
 Deponent: KYLE WEST

## CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reason
7				
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KYLE WEST

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

(Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_